



special  
collections  
DOUGLAS  
Library



QUEEN'S UNIVERSITY  
AT KINGSTON

KINGSTON ONTARIO CANADA





OBSERVATIONS  
ON  
D<sup>R</sup> PRICE'S  
THEORY and PRINCIPLES  
OF  
CIVIL LIBERTY and GOVERNMENT,  
PRECEDED BY  
A LETTER to a FRIEND,  
ON THE  
Pretensions of the AMERICAN COLONIES,  
In respect of  
RIGHT and EQUITY.

---

Dissentientium inter se reprehensiones non sunt vituperandæ: maledicta, contumeliæ, tum iracundiæ, contentiones, concertationesque in disputando pertinaces, indignæ mihi philosophia videri solent: - - - - - neque enim disputari sine reprehensione, nec cum iracundia aut pertinacia recte disputari potest. CICERO *de fin. Bon. & Malorum*. Lib. i. 8.

---

Y O R K :

Printed by A. WARD, for J. DODSLEY, T. CADELL, and R. BALDWIN, London; and J. TODD, in St. George. York. 1776.

AC911. 1776. G66

SPECIAL  
COLLECTIONS

DOUGLAS  
LIBRARY



QUEEN'S UNIVERSITY  
AT KINGSTON

KINGSTON ONTARIO CANADA

# ADVERTISEMENT

OF THE

E D I T O R.

*I* Have not scrupled to make use of the permission to publish these Observations on Doctor PRICE's Theory and Principles, together with the Letter that precedes them. The Doctor and others have been particularly confident in appealing to these principles as uncontrovertibly founded on Reason, and supported by the best Authorities. With these confident pretensions the Observations of my friend seem worthy to be contrasted; and as the Doctor particularly objects to nameless antagonists, I have prevailed on him to suffer his name to appear at the end of the Letter.

Any attempts to reconcile perfect Liberty with Government must ever fail, as they always have done hitherto, <sup>whether</sup> ~~either~~ in theory or practice; and to set up public pretensions to it is unhappily deluding the unwary and undiscerning part of the people, and sowing the seeds of unreasonable discontent. Doctor PRICE's system seems reducible into as little compass  
as

## ADVERTISEMENT.

*as that, within which Mr. LOCKE comprizes the scheme of Sir ROBERT FILMER's Patriarcha,— only just in the other extreme. FILMER's; That all Government is absolute Monarchy, and the ground he builds on is this, That no man is born free. Doctor PRICE's; That all Government is or ought to be a Democracy, and the foundation of his system is this, That self-government is unalienable. Between these two are several mediums, which Reason and Experience recommend, and which have the sanction of Mr. LOCKE and of the most esteemed writers on Civil Government.*

*Many answers have been published to Doctor PRICE's pamphlet, but none, it is presumed, that supersede the utility of this; the special intent and object of which are sufficiently explained by the writer himself. The haste, with which things of this temporary nature are written and published, may possibly have left some small inaccuracies of style and expression; for which the critical and candid reader will make due allowance. One error of the press, as being a very material one, I must mention here; it occurs page 44 in the note, line 14, where for resistible read irresistible.*

June 20, 1776.



# C O N T E N T S.

## LETTER TO A FRIEND, ON THE PRETENSIONS OF THE AMERICAN COLONIES, IN RESPECT OF RIGHT AND EQUITY..

<i>Occasion of this Letter.</i> —                    —	Page 1—4
<i>Constitutional right of the Parliament to tax the Colonies.</i> —                    —	4—6
<i>Objections from the Principles of the Consti- tution—and the Law of Nature.</i> —	7—11
<i>The sovereign legislative authority of Par- liament over the Colonies asserted.</i> —	12—18
<i>A particular argument for the independence of the American Colonies considered.</i> —	18—23
<i>Their equitable and inequitable pretensions. —</i>	23—30
<i>Their obligation to contribute to the public burdens of the state.—Propriety of coer- cive measures.</i> —                    —	30—34
<i>The claims of Government and the civil om- nipotence of Parliament vindicated from Dr. PRICE's misrepresentations.</i> —	35—45
<i>Various other misrepresentations of the Doc- tor rectified.</i> —                    —                    —	45—60

## OBSERVATIONS ON DR. PRICE'S THE- ORY AND PRINCIPLES OF CIVIL LI- BERTY AND GOVERNMENT.

SECTION I. <i>Introduction.</i> —                    Page	63—67
SECT. II. <i>Dr. PRICE's main Position.</i>	68—75
SECT. III. <i>Summary view of the Doc- tor's Principles.</i> —                    —	76—78
SECT. IV. <i>Prejudice from Names ob- viated.</i> —                    —	78—82
	SECT.

## C O N T E N T S.

SECT. V. <i>Dr. PRICE's Principles of Liberty, in regard to Individuals, considered.</i>	— — —	Page 82—89
SECT. VI. <i>The Doctor's Theory of the Liberty of Communities, or Civil Liberty, examined.</i>	— — —	90—98
SECT. VII. <i>Whether Dr. PRICE's model of Civil Government is the best and most eligible form?</i>	— — —	98—119
SECT. VIII. <i>Advantages improperly represented by Dr. PRICE as peculiar to his Theory.</i>	— — —	120—128
SECT. IX. <i>Remarkable inconsistencies and inaccuracies of Dr. PRICE in the delivery of his Principles.</i>	— — —	129 to the end.

---

## E R R A T A.

Page 23.	line 9.	For <i>particularcir cumstances</i> read <i>particular circumstances</i> .
27.	l. 14.	For <i>principle</i> read <i>principles</i> .
44.	note l. 14.	For <i>ressible</i> read <i>irressible</i> .
61.		For <i>gouvernemens</i> read <i>gouvernemens</i> .
		For <i>Liv. x.</i> read <i>Liv. xi.</i>
112.	l. 26.	For <i>resolutions</i> read <i>revolutions</i> .
113.	l. 1.	For <i>resting</i> read <i>vesting</i> .

L E T T E R

T O A

F R I E N D,

O N T H E

Pretensions of the AMERICAN COLONIES,

In respect of

R I G H T and E Q U I T Y.



A  
L E T T E R

T O A

F R I E N D,

On the Pretensions of the AMERICAN  
COLONIES, in respect of

R I G H T and E Q U I T Y.

DEAR SIR!

I Herewith send you my *Observations* on  
Doct<sup>r</sup> PRICE's Principles of Government  
and Civil Liberty. If they appear to you  
just and important, you are welcome to make  
them public, together with this Letter. You  
will observe, that I have concerned myself  
merely with the *Principles* themselves,—not with  
the *Application* he makes of them to the Ame-  
rican controversy. Indeed if the Principles  
cannot be supported, the Application fails of  
course. There are however many other things  
made use of in the Doct<sup>r</sup>'s Pamphlet, in order  
to point out the injustice of the sovereignty  
claimed by Parliament over the American Co-

A colonies,

lonies, as well as the impolicy, iniquity, dishonour, and evil consequence of maintaining it by force of arms. But neither with this, or with that controversy, have I meddled in the following Observations. My pen has been actuated by views of a more general nature. The case is this. It seems to me, that the American pretensions have very often been supported on exceeding unwarrantable and licentious principles, as well in regard to Liberty and Civil Government in general, as to the Constitution of this Country in particular. To take notice of all the trash of this kind, that comes before the Public in a country, where there is happily so much legal freedom of speaking and writing as in this,—would be an idle occupation. Candor also will lend, in some cases, the most favorable construction possible to the unguarded assertions, that seem to proceed from a general zeal for Liberty: yet as *there cannot be*, according to Mr. LOCKE's remark \*, *a greater mischief to Prince and People, than the propagating wrong notions concerning Government*; therefore when particular circumstances mark such sentiments with unusual importance; when they are so determinately delivered as to preclude all benign interpretation; when

\* On Government, preface.

when they are applied and asserted in such a manner, as to loosen the bonds of civil Society, and unsettle the just principles, on which all civil Government and our own excellent Constitution are founded; when they are falsely imposed upon us, as the sentiments of the most admired writers on Government and civil Liberty, as the principles of our own constitution, as the foundation of the Revolution and of the accession of the House of Hanover; when they are cried up as the only foundation of all true, invaluable, unalienable LIBERTY, and every state, disagreeing with them, is stigmatized with the odious name of SLAVERY;—in such, and such like circumstances, there is surely a peculiar propriety in a decent, candid, and rational opposition to their unjustifiable pretensions. This I apprehend to be the case at present; and it is under a sense of that propriety the Observations here transmitted to you on Doctor PRICE's principles have been penned, with a view to obstruct their propagation. The uncommon sanction they have met with; the great stress he himself lays upon them; and the literary reputation of the Author, engaged me to set myself in opposition to this publication in particular. With what success, you and my readers must judge.

You wish also to have my sentiments on the controversy with the Colonies. If you want me to speak positively and determinately, as is the manner of some, on every point relating to it; that is what my information, and the evidence before me, will not allow: but I will not scruple in the least to communicate them to you, with that degree of evidence, they are accompanied with in my own mind, and to illustrate and confirm them by remarks on several parts of Doctor PRICE's pamphlet, that relate to the subject. I shall devote the remaining part of this Letter to that purpose; desiring to keep all discussion, concerning the American controversy, separate from the subsequent *observations* on his Principles of Civil Liberty and Government.

§ 1. There is not, Sir, with me the smallest grain of doubt of the Parliament being, to all intents and purposes of Government, and as far as that trust extends, *sovereign and supreme* over the whole British Empire, unless special exemptions can be produced. The Constitution and its principles neither know, nor admit of, any other. But to speak, in the first place, more particularly to the original question concerning Taxation; the American Colonies asserted in 1765 as follows: "That the Taxation of the people  
" by



“ by themselves, or by persons chosen by them-  
 “ selves, to represent them, is the distinguish-  
 “ ed characteristic of British freedom.” VIR-  
 GINIA.—“ That the constitution of government  
 “ in this province ought to be perfectly free.  
 “ That the Taxation of the people of this pro-  
 “ vince by any other persons whatsoever, than  
 “ the Representatives they annually elect to  
 “ serve as Members of Assembly, is unconsti-  
 “ tutional and subversive of public liberty, of  
 “ their birth-right and indubitable privileges.”  
 PENNSYLVANIA.—“ That all Acts by any  
 “ Power whatever, other than the general As-  
 “ sembly of this province, imposing taxes on  
 “ the inhabitants, are infringements of our in-  
 “ herent and unalienable Rights as Men and Bri-  
 “ tish subjects, and render void the most valu-  
 “ able declarations of our Charter.” MASSA-  
 CHUSETTS.—“ That no taxes ever have, or can  
 “ be constitutionally imposed on the people of  
 “ these Colonies, but by their respective Le-  
 “ gislatures, as being their only Representa-  
 “ tives.” CONGRESS at New-York. \*

These

\* See these *Resolves* of those several bodies in the *Appendix to the Controversy between Great-Britain and her Colonies reviewed*, London, 1769.

These seem to me very groundless positions. I think there cannot be a more evident truth, than that the right of taxing any part of the British empire, and consequently the American Colonies, unless particularly exempted by grant or compact, is legally and constitutionally resident in the Parliament. Nor do I find that the American Colonies (excepting *Maryland*) are at all exempted from this general subjection by any charters, grants, or compacts: with that exception, the invalidity of their charters, to exempt them from Parliamentary taxation, has been clearly demonstrated by the able writer of *Remarks on the Acts of the thirteenth Parliament of Great-Britain*; and in the *Pennsylvanian* charter there is a clause clearly decisive on this point against that province, and consequentially against the others. I therefore conclude the Colonies, as members of the British community, to be, by Law and Constitution, subject to the supreme authority of Parliament in regard to taxation, just the same as any other part of the community. This may be *right* or *wrong* according to principles of *natural* equity;—it is nevertheless fact; it is nevertheless the *Law* and the *Constitution* of the British Empire.

§ 2. Much has been said on this occasion about the *Principles* of the Constitution; with a view to prove, that, according to them, the Colonies *are* or *ought* to be perfectly free, and independent of the authority of Parliament, in regard to taxation. After considerable investigation, I can find no principles in the Constitution, that imply any such thing, but many, that loudly speak the reverse. The grand topic in this line of argument is,—That *it is a principle of the British Constitution, that no British subject can be taxed but with his own consent*. If the arguments, used to support this position, be allowed, they will equally prove, that, according to the principles of the Constitution, no American subject can be bound by any law or regulation without his *own* consent,—and that the Colonies ought to be their *own* legislators, as well as their *own* taxers. Consent, whether *personal*, or by *delegation*, has no more constitutional connection with taxation, than with every other right of the supreme power. But the truth is, the position itself, as understood in this application of it, is destitute of all foundation. Like the prerogative axiom, *The King can do no wrong*, it is indeed true in a particular qualified sense of the words; but if taken literally, and strained beyond the only meaning warranted

warranted by Law and the Constitution, it is false, and capable of very mischievous application. If you understand by the words *own consent*, the consent of both Houses of Parliament, of which the Commons are a body delegated, by a stated mode of election, to be the Representatives of the people at large; the maxim is perfectly agreeable to truth, and in this sense has justly been laid down as a privilege of our Government: but in that strict sense of consent, either *personal*, or by a *representative of one's own choice*, in which it is applied to support the American pretensions, it is a very false, absurd, and licentious doctrine; as I mean to have evidently shewn in some observations in the *York Chronicle* of the 7th and 14th of April last year, under the signature of LIBERIUS. The person, who then advanced it, being misled by the authority of others, was much surprized at my requiring him to prove what he had taken upon trust, as an uncontrovertible and universally acknowledged truth, and was probably much more astonished, upon mustering together all the forces he could collect, to find that, though otherwise good troops, they were totally insufficient for that service.

That

That the people of America share not so largely as the inhabitants of England and Scotland in those checks or securities, which the *principles* or *actual state* of our Constitution wisely afford against the abuse of civil power in general, or of the important power of taxation in particular,—I readily allow. Pretensions of this kind have some foundation in equity and our free government:—more of this presently.

§ 3. But the Leaders of the American Colonies and their advocates are not content with such pretensions, nor with resting their more important ones on *charters*, and the *principles of the Constitution*; they ascend to a higher source than either; they desire to bring the question to a *higher test and surer issue*, as they term it\*. It is said to be repugnant to the *Law of Nature*, and the *essential unalienable rights of Mankind*, that the Colonies should be subject to taxation by Parliamentary authority, or by any authority but of their own general Assemblies. Now if this be true, I am sure, that by the *same principles*, every other right, every other power of Parliament over them, not forgetting the almost only one now uncontested of regulating their commerce, which some so inconsistently main-

B tain,

\* PRICE'S *Observations on Civil Liberty*, &c. p. 32, 41.

tain, must fall to the ground: I contend, that the same *natural* principles, which prove, that the Parliament cannot have a right to tax them, will equally prove that body of men to have no manner of civil or coercive authority over them whatever. If they have a *natural unalienable* right to tax themselves, they have the *same* right to govern themselves, and regulate their own affairs, according to their own discretion. And in fact, to this extent do almost all the arguments, that have been manufactured from such general principles, reach. They set the American part of the Empire quite afloat from the rest, and extend to an entire civil independance. To instance from the grand topic of all; to wit, “that no man or number of men can, “consistent with *natural right and justice*, be “taxed, but by the actual consent, either of “themselves in person, or of representatives “chosen freely by themselves:” now if this be granted, it is evidently equally contradictory to *natural right*, that any man, or any communities of men, should be *governed* or *controlled* at all in their own concerns without such actual consent. However you understand, limit, or qualify that position, it will in the same sense, with the same limits, and the same qualifications, apply to every act and ordinance of civil Government:

vernment. Whatever sort of consent be necessary, by *natural right*, to the taxation of a man's property, the very same is equally necessary to any governmental disposition over his person or actions; for it has evidently no more *natural* connection with taxation, than with every other power of Government.

Doctor PRICE's principles of civil Liberty go also the same length; which he himself seems to allow in two or three places; though he has chosen, he says, to confine his views (but for what reason?) to *taxation* and *internal legislation*\*: the latter is indeed now become, by a very natural course of things, a part of the question in dispute between this Kingdom and the Colonies. They at first confined *their* views to the power of *taxation*; now they extend them to *internal legislation*. The topics they argued from against the former,—and the very disagreeable exertions of Parliamentary legislation and coercive power, consequent upon their resistance,—naturally led to this removal of the boundaries of the original question; and must as naturally lead on their views, as circumstances permit, to the removal of every power they judge disagreeable.

B 2

§ 4. The

\* See page 37, 28, 100.

§ 4. The question therefore is now, in fact, as Doctor PRICE gives it,—"Whether the  
 " American Colonies are bound to be subject  
 " to the jurisdiction of the Parliament, in re-  
 " spect of taxation and internal legislation?" \*  
 Accordingly the general *Congress*, held at *Philadelphia* in 1774, assert,—“that as the English  
 " Colonists are not, and from their local and  
 " other circumstances can not be, represented  
 " in the British Parliament, they are entitled to  
 " a *free and exclusive* power of *legislation* in their  
 " several provincial legislatures, in all cases of  
 " *taxation* and *internal polity*, subject only to the  
 " negative of their sovereign,” viz. the King †.

I have not, as I said before, a grain of doubt about the sovereignty and supremacy of the Parliament over the whole British empire, unless special legal exemptions can be pleaded. This is agreeable to the Constitution and its principles. The American Colonies are a part of the British empire, and have no such exemption to plead, except *Maryland*, in point of taxation. On the contrary, their Charters, and  
 the

\* Page 42.

† *Extracts from the votes, &c. of the American Congress, held the 5th of September, 1774. Resolve the 4th.*



the first settlements in America, bear upon the face and circumstances of them an avowed general submission to the Government as by law established in this country. The social compact is in most cases only an implied agreement; but in this it has been explicitly recognized and renewed, with certain modifications, as were judged agreeable to the circumstances. The Colonists settled in a distant part of the earth, under the express avowal and claim of being *British subjects*, members of the British community; under sanction of the common protection and authority; under acknowledgement of a general subjection to the established supreme legislature; under certain charters and stipulations settled by the legal powers then existing;—which charters and stipulations not only in themselves implicitly suppose, but contain express reserve of, their remaining under the authority of the one common supreme Legislative. Nothing can be more evident, than that such transactions as these speak aloud very plainly the subjection of the Colonists to Parliament, in regard to every branch of civil power, from which they are not by grant or charter exempted. And accordingly it has constantly and uninterruptedly exercised all such legislative and governmental powers, as have been judged expedient,

expedient, in all forts of concerns; and also enforced this its own constitutional right and supremacy over the Colonies, by an express statute in King William the *third's* time, when some feeble attempts were made against it. "When Lord Chatham," says the noted JUNIUS, "affirms that the authority of the British legislature is not supreme over the Colonies, in the *same* sense, in which it is supreme over Great Britain,—I listen to *him* with diffidence and respect, but without the smallest degree of conviction or assent." \*

This being clearly the case,—the leaders and advocates of our fellow-subjects in America endeavour to turn our views now entirely from those transactions and the Colonial charters to other

\* *Letters*, &c. vol. II. p. 268. Dr. PRICE asks, p. 40, "Did they not settle in America under the faith of Charters?" Doubtless; and this Country claims their subordination to Parliament under the *faith* of those *Charters*.—"Did not these Charters promise them the enjoyment of all the rights of Englishmen?" None inconsistent with the sovereign supremacy of Parliament; no *exclusive* right of self-legislation and self-taxation by their own Assemblies: that would imply a contradiction. For the rest, the allowing them to tax themselves, and to have subordinate local legislatures of their own, excludes not in the least the supreme authority of Parliament.

other more pliable principles; saying, “that the supreme authority of Parliament over the Colonies is contrary to right and justice, and therefore never could be established by any compact, stipulations, or acquiescence:”—“Had “there been,” says Doctor PRICE, “express stipulations to this purpose in all the charters “of the Colonies, they would, in my opinion, “be no more bound by them, than if it had “been stipulated with them, that they should “go naked, or expose themselves to the incursions of wolves and tigers.—The question “with all liberal enquirers ought to be, not “what jurisdiction over them *Precedents, Statutes, and Charters* give, but what reason and “equity, and the rights of humanity give.”\*

Thus we are got again to principles of *natural right*: and I answer again, that according to these, the Doctor should have *extended* his *views* further than to *taxation* and *internal legislation*†: for these same principles will equally prove the Parliament to have no civil authority whatever over the Colonies. They have as good a *natural* right to regulate their own trade, and their

\* Page 41, 32.

† Page 100, in the *Notes*.

their own connections with other states, as to be their own internal legislators. Accordingly Mr. MOLYNEUX, when he argued against *Ireland's* being bound by Acts of the British Parliament, on the principle,—“ that the Irish had no *share* “ in making those laws, and that Slavery is the “ being bound by laws to which we do not “ consent” (the very principles adopted by Doctor PRICE \*), very consistently denied the Parliament’s right to make any laws, even to regulate the trade of Ireland;—in this much more fair and consistent than the present assertors of those principles in favour of America, who still maintain the Parliament of Great-Britain to have rights over the people of America, which those very principles clearly subvert.—One writer indeed scruples not to speak out in the following manner:—“ Many will perhaps “ be surprized to see the legislative authority “ of the British Parliament over the Colonies, “ denied *in every instance*. Those the Writer “ informs, that, when he began this piece, he “ would probably have been surprized at such “ an opinion himself. For it was the result, “ not the occasion of his disquisitions. He entered upon them with a view and expectation of being able to trace some *constitutional line*

\* Page 100, in the *Note*.

“ *line* between those cases, in which we (the  
 “ *Americans*) ought, and those, in which we  
 “ ought not, to acknowledge the power of Par-  
 “ liament over us. In the prosecution of his  
 “ inquiries, he became fully convinced, that  
 “ *such a line doth not exist*; and that there can be  
 “ *no medium* between *acknowledging* and *denying*  
 “ that power in ALL CASES.”\*

§ 5. You will probably say, that I have hitherto only explained to you my opinion, that the arguments from *natural right*, in favour of the American pretensions, extend to entire political independence,—without telling you my sense of their intrinsic merit and validity. It is true. I meant to insinuate, that as the Colonies are *said* still to acknowledge their rightful subjection to parliamentary authority, in regard to the regulation of trade and other civil concerns, as usual before the present troubles,—therefore those topics from the Law of Nature would prove *too much*, and consequently *nothing*. But I will answer you more directly. I find no efficacy at all in those *general* reasonings hither-

C

to

\* *Considerations on the nature, and the extent of the legislative authority of the British Parliament.* Printed in 1774, attributed to Dr. FRANKLIN. See Dr. TUCKER's 5th l. 227, p. 47.

to alledged to prove their having any *natural*, much less a *constitutional*, right to Self-government and Independence on the authority of Parliament, in any one department of civil power : indeed they all center in Doctor PRICE's principles of Government and Civil Liberty, the insufficiency of which I have endeavoured to point out in the piece that accompanies this letter.

There is however, in my opinion, a good deal more appearance of plausibility in some hints and argumentations, occasionally thrown out only as collateral supports, founded upon the *particular situation* and *special circumstances* of the case : as for instance ;—the Colonies being grown to a body of powerful States, likely to become very soon a mighty empire, equal and haply superior to Great Britain ; able in every respect to subsist alone, to act for and protect themselves, and separated from us by a great Ocean, at the distance of above 3000 miles. Must such an Empire, it may be said, so circumstanced, which from its peculiar and distant situation from Great Britain, has necessarily such different natural connections and interests, and also wants those ties of near neighbourhood with it, that ordinarily connect people  
together

together into one civil community, under one and the same Legislature,—still continue, to its own evident inconvenience, united to Great Britain as *one* State? Nay! is it not a still greater impropriety and inconvenience,—that such an empire, so circumstanced, should be subject to a Legislature, resident at so great a distance, on this side the Atlantic, with the members of which, in general, the connections must unavoidably be very loose, the intercourse difficult and tedious, the fellow-feeling and mutual sensibility too faint;—can such a Legislature, so circumstanced, superintend adequately and beneficially a Community so remote; can it be a competent judge of their circumstances and abilities, of their sufferings and oppressions; can it quickly enough know, feel, or redress evils, and operate as the public welfare may require? Have not the American communities therefore a well-grounded plea in reason and equity to emancipate themselves from civil union with us, and to govern themselves? especially as it is much to be doubted, whether even any scheme can be devised of uniting them under one Legislature with us, consistent with a due regard to the principles of a free and equal Government\*. We were,

C 2

they

\* I sincerely hope this position may be found groundless.

they may say, in our infancy and first youth, under the care of our parents; and during that time subservient to their interests, under their authority; now we are arrived at manhood, and ought to be, from strength and situation, independent agents.

This mode of argumentation, in favour of the propriety and justice of American *independence*, is suggested by Doctor PRICE; but I think I have placed it in a much more forcible light, than it is found in his pamphlet\*. I would, in the first place, observe, that the point here argued, not being part of the question between this Kingdom and the Colonies, is out of the line of the present subject. No such claim has yet been made in *direct* terms. When it is, it will be time to consider this particular argument more fully. In the mean time, admitting at present the apparent plausibility of it,—such arguers should be reminded, that in their zeal for the interests of our brethren in America, they entirely overlook the *interest* that *Great Britain* may have in the continuance of the civil compact, which unites it with the Colonies.

Civil

\* See page 19, 20, 27, 33, 44.



Civil Society would be a mere rope of sand, if every individual, or whole bodies of men, had a discretionary liberty to dissolve their civil union with the rest of the community, whenever they judged it most for their convenience. Such a liberty would be evidently inconsistent with the ends of Civil Society. The *private* interests indeed of individuals, or of particular bodies of individuals, may justly be considered, as the *motive* of associating with others, but can not be the *measure* of their obligations to the Society: for other people had the same views in associating with them, and thus the *common interest* becomes the end and bond of the union, and the standard of political duty. Protection and security is what the Society gives. Allegiance is what it has a right to, and can not subsist without. There is thus a mutual compact between all the members of a community, and between the body politic and the members; a mutual interest in each other, which is particularly modified by the various relations the different parts of the whole stand in to one another, arising from situation, agreement, or other circumstances. And doubtless *particular* circumstances and situations may enhance prodigiously the degree of that interest in the common union: as for instance, the neighbourhood

bourhood of potent states animated with a spirit of dominion and encroachment; wealth and strength expended by the community on any particular part; a common debt; any common obligation incumbent upon the whole society;—which things I only just hint at in the utmost generality, but are capable of being much more strongly urged. It appears plainly, however, that Civil Society, being formed for mutual benefit, implies a mutual contract and allegiance; from which one part may not discretionally depart, merely for their own private convenience, without content of the rest; and that there may be very just and weighty reasons for refusing assent in such a case, and forcing the refractory part to due subordination.

Now it is a *fact*, that Great-Britain and the American Colonies are one Civil community. The Charters implied the original compact, and were also a formal renewal of it with peculiar circumstances and modifications, according to which they variously contribute, in their respective established order and relation, to the good, safety, and welfare of the whole Empire. These bonds,—this obligation,—may not be dissolved merely at the pleasure and for the particular convenience of one party. How far this country

try may be particularly interested from such circumstances as above hinted at, or others of like nature, to keep the Colonies within the bonds and terms of the mutual compact, I leave to the judgment of others ;——meaning only to suggest, that these considerations ought at least to be *put in the scale*, when people are weighing arguments for the *independance* of the Colonies, founded on their particular circumstances, distinct interests, greater conveniency, flourishing state, ability to do without us, and such like *private* motives.

Circumstances may doubtless be *imagined* and *conceived*, in which the American Colonies, as well as any other part of the Empire, might justly claim emancipation. Accordingly Doctor PRICE enters with this view into the speculative region of possibles \* ; where it is to no purpose to pursue, till those circumstances become actual, or are declared so by him.

§ 6. But, Sir ! although the claims of the Colonies to be subject only to their own Assemblies in matters of legislation and taxation, or in any department of civil sovereignty, stand not on any reasonable ground ; although the  
supreme

\* See page 43—45.

supreme authority of Parliament over the whole British Empire be an incontestible axiom, according to *law* and the *principles* of the *Constitution*;—yet it must be acknowledged that the case of the Colonies, in regard to this Legislative body, is very materially different from that of the inhabitants of Great Britain. The particular relation, in which that Legislature stands to the latter, forms, and was intended to form, a considerable check to the abuse of the supreme trust of government, and of that important branch of it—*Taxation*. This is *one* characteristic of our Constitution, as far as it is a free one. The House of Commons is a temporary body, elected every seven years, or sooner, by the Freeholders of forty shillings a year throughout the kingdom, and by the Burgesses of cities and boroughs scattered all over the kingdom,—the members of which are subject to the same laws and taxes they impose upon others, and are settled in all parts of the country; intimately connected with it and with the rest of the people, by their families, estates, connections, dependencies, &c.; which is the case likewise with the Peers.

Widely different is doubtless the case of those large communities of British subjects,  
situated

situated in America. They are destitute of those controls on the supreme legislature, which arise from the rights and circumstances just mentioned: for that power is fixed on this side the Atlantic, at 3000 miles distance from them; they share not any wise in that power, neither personally, nor by their votes or interest at elections; neither do they stand in those other circumstances above-mentioned of near connection with the Legislators; they might therefore perhaps have reason to apprehend a disproportionate part of the public burden being cast upon them, for the ease of us and the legislators themselves.—This difference is very feelingly represented by a writer, whose words I shall insert below\*; and Doctor PRICE's few  
D
reflections

\* “ Do you not know the infinite difference between a  
 “ nation, where *all* have *not* the power of voting for their  
 “ representatives, and a nation where *none* have that power?  
 “ The former is *your* condition, and therefore, you are a  
 “ free people; the former is what we claim: the latter is  
 “ the condition of slaves, and that is what you offer us.—  
 “ England can not be taxed, but by an Assembly, where  
 “ her land is represented by knights, her monied interest  
 “ by citizens and burgessees, and therefore she is a free na-  
 “ tion. Is then America on a par with England, in point  
 “ of freedom, if she can be taxed by an Assembly, to which  
 “ her Freeholders send *no* Knights, and her Cities *no* Citi-  
 “ zens?

reflections to the same purpose must therefore be allowed their due weight. \*

These

“ zens? --- It is not true, that we are in *as good* a condition  
 “ as those Britons, whom you call unrepresented, and who  
 “ are not electors: for even *they* have this great advantage,  
 “ that both the representative, and the electors, pay a part  
 “ of the tax, as well as those, who have no suffrage; where-  
 “ as, if the House of Commons of England should tax the  
 “ Americans, neither the representatives, nor the electors,  
 “ would pay any proportion of what they imposed upon  
 “ us; they would not tax, but *untax* themselves. The  
 “ condition therefore of an Englishman, who has no suf-  
 “ frage, when taxed by the British legislature, and of an  
 “ American taxed by the same authority, are totally dissi-  
 “ milar. --- A body of 500 men, situated in the midst of  
 “ seven millions, and taxing those seven millions, would  
 “ surely be more bound to moderation, by fear, if not by  
 “ principle, than the same body, assisted and supported by  
 “ those seven millions, in taxing two millions, who are at  
 “ a distance. To oppress, in one instance, would, at least,  
 “ be infamy, if it would not be punishment; in the other,  
 “ they might find it popularity, they might think it patrio-  
 “ tism. Mr. P—TT said (if I mistake not) that every man  
 “ in England could huzza at an election: even that method  
 “ of expressing one’s wishes, is some satisfaction, and has  
 “ some influence; the shoutings of the people have had  
 “ great effects;—We can not even *huzza* at an election. ---  
 “ How different is the effect of a petition presented by the  
 “ hands

\* See page 42, 43, 47, 48, 100.

These comparative disadvantages of the American Colonies have arisen accidentally from their emigration ; but they have not, till lately, been of age or strength enough to feel them so universally :—from feeling they have proceeded to reasoning ; and a concurrence of various circumstances has extended their views to unwarranted lengths. But indeed so far as they only desire to be put upon a more *equal* footing with ourselves, in regard to government and constitutional checks against the abuses of power, especially in regard to taxation, I really think them warranted by the principle of equity, liberty, and the spirit of the British constitution. I earnestly wish them to be put upon as equal a footing as possible with their fellow-subjects in Britain. How far, and

D 2 in

“ hands of the injured, enforced by their assiduity, and  
 “ recommended by their tears, from that of our *paper-re-*  
 “ *presentations* ? They are subject to be misrepresented in  
 “ a thousand ways : they come cold, and you do not feel  
 “ them ; often too late, and you cannot comply with them ;  
 “ and what was done by you through inattention and mis-  
 “ take, must be maintained *for dignity* ; in a word, they  
 “ do not strike home, either upon your caution, or your  
 “ kindness ; your affections or your fears : In this particu-  
 “ lar, the very women and children of England have an  
 “ influence upon Parliament, of which the Americans are  
 “ destitute. How different is your Lot from ours !” *Case*  
*of Great-Britain and America*, London 1769, p. 6—15.

in what degree or mode, this be practicable, consistent with the being united under one supreme authority,—is a subject, I presume, of some difficulty, but not impossible to be adjusted, were there mutual good dispositions on both sides. Several schemes have been proposed: the Parliament made an offer to this purpose, in regard to the great object of taxation, in the spring of last year:—it was this; “*that upon acts of their own legislation for raising a reasonable sum towards the charges, with which government must necessarily be burdened for their protection and defence, acts of Parliament for taxing them ought to be repealed, and that it will not be adviseable to tax them for the future.*”

This was putting them nearly on the footing of Ireland. How has it been received? With insult. If the American Colonies did not like that,—should they not, in their turn, have proposed some other scheme? But it is remarkable, that while many plans have been devised here, in order to do them as much justice as possible, they keep quite aloof, without offering any terms tending to reconcile our mutual union under one supreme authority with their security and freedom. The truth of the matter is,—the present ideas there allow of no such conciliation :



conciliation: *union* with us under *one common supreme authority* is what neither their leaders, nor Doctor PRICE's principles, will admit of; "the Colonies insist," says he, "on being *treated as free communities*:"\* but instead of saying so in direct terms, they offer nothing in answer to our condescensions,—but the demand to be restored to the same situation and connections with Great Britain, as at the close of the last war; that is, according to their ideas, to a state of *EXCLUSIVE internal legislation and taxation* by their own Assemblies, which they absolutely insist upon; that is, demanding, that Parliament shall renounce all the claims, that gave occasion to, or increased, the present troubles, while they peremptorily refuse to recede an inch from theirs: it is demanding, in regard to taxation and the public burdens, that we, and the rest of this great empire, should place an implicit confidence in *their discretion*, at the same time they absolutely refuse to place any in *ours*:—it is demanding, not to be put on an *equal footing* with other British subjects, but on a *more independent* one; on such a footing, as is inconsistent with their remaining British subjects. To such demands the Colonies have no legal, constitutional, or natural right: reason

\* See page 56.

reason and equity also pronounce such claims to be equally inadmissible by this country and the Parliament, as the claim to their absolute submission could be to them. Accordingly the Parliament, at the same time that it held out the olive branch in the resolution of the spring 1775, declared it could not relinquish any part of its sovereign authority over all the dominions of the British empire.

In short, any terms they claim for further security against oppression, or the equitable increase of freedom, consistent with our joint and equal submission to the one supreme legislature, ought to be duly attended to,—and are a suitable ground to treat upon; but such as destroy this bond of civil union, and vindicate to them self-legislation and self-taxation, independent of the authority of Parliament, overshoot the mark much too far.

§ 7. See there, Sir! my sentiments on the principal questions relating to the power of Parliament over the American part of the British empire. Others have been started concerning the *policy* and *propriety* of the exertions of that power in particular instances of taxation, legislation, coercion, or the opposing force  
to

to their resistance. I do not think myself qualified, either by sufficient knowledge of particular facts, or by insight enough into the interior state, trade, production, finances, and resources of the Colonies, perhaps not of this country, to communicate a satisfactory judgment on those topics:—they have been largely discussed, though with a latitude, that allows many plausible things to be alledged on both sides, with much wrangling and speculation to little purpose. One thing however seems to admit not of dispute; to wit, that the American Colonies *ought* to bear a proportionable part of the public burdens of the state. This is evident on general principles: I need not therefore urge, that half the present burthensome debt on the state was contracted in a war, begun in their immediate defence, and prosecuted with the utmost zeal and vigour, till its good success issued in delivering them from a most dangerous and obnoxious neighbour, and in enabling them, by all the great advantages consequent thereupon,—to bid defiance to us and the supreme Legislature. Some seem to think, that no profit ought to be expected from the Colonies, but what results from commercial regulations. How great the profits are which the state derives from the Act of Navigation

gation in all its consequences, I pretend not to ascertain; but I should apprehend, with submission to better judgment, that a *proportionable taxation* would be as beneficial a mode of their contributing to the common fund,—and certainly a less arbitrary and oppressive one,—than such a *monopoly of their commerce*: I am aware of the general opinion, that the manufactures of this country, and by their means, its wealth and flourishing state, are principally supported by that monopoly; but I doubt the fact, and am nevertheless of opinion, that the people of this island would be more lastingly, securely, and substantially benefited by the other mode, and allowing the Colonists in general as free a trade, as we ourselves enjoy here:

In regard to the *right and propriety* of using coercive measures against the American resistance to government,—I can see no reason to doubt either. This country and the colonies are united in one civil community,—under one supreme legislature,—for the purpose of the general welfare. To this union the Colonies now run counter; by rejecting the supreme authority of that legislature in some of the most essential departments of civil government;

vernment; by refusing to be subject, in those respects, to any common joint Legislature,—to any power but their own provincial Assemblies. Suppose the cities of London, Bristol, or Leeds were to deny the right of Parliament to tax their citizens, and pretend to the right of self-legislation and taxation, independent of its authority, and *insist*, as Doctor PRICE says the Colonies do, on *being treated as free communities*; \*—should you not think that it would be the right, as well as the duty of Parliament, in trust for the rest of the community, to compel them to due subordination, and punish them, as circumstances should require, for disobedience? Apply this to the American Colonies. The pretensions they form to self-government and self-taxation by their own Assemblies, independent of Parliamentary authority, are, agreeable to what has been said in the foregoing pages, equally unjustifiable and inadmissible as in any other part of the state. What remains then for the supreme power to do, in conformity with its trust, but to compel them to their duty and the terms of the social compact? The rest of the community has a contracted right to their equal subordination, and Parliament is obliged to enforce it;—particu-

E larly

\* See page 56

larly so as not to leave their contributions to the public burdens of the state to their own discretion, to *give* and *grant* as they please. At the same time every well-disposed person will heartily wish, that no private interests, or ill temper on either side, may prevent the contest being ended and the sword sheathed, as soon as ever the interests of the nation, of justice, and of humanity, will allow, with every security to their property and civil rights consistent with the general welfare.

As to particular measures of Administration in these matters, either prior or subsequent to the resistance the Colonies have made to Government,—I did not take up my pen with a view to say any thing about them, but only to give you, in compliance with your desire, my sentiments on the pretensions of the American Colonies, in respect of Right and Equity, accompanied with a little spice of reasoning, and, I hope, with acceptable moderation and candor.

I proceed now to communicate some brief remarks on several passages in Doctor PRICE's pamphlet, which will illustrate and confirm the preceding sentiments.

§ 8. In order to render the Parliamentary authority of internal legislation and taxation over the Colonies odious, the Doctor misrepresents its nature and the nature of Civil Government very grossly. He represents it,—as a *disturbance of, and an attack upon, the possession of their property*; as such an *absolute command, mere discretionary power, and eternal mastery, over their whole property and legislation, as would leave them nothing to call their own*;—as a power of *subjecting them to any modes of government at pleasure*, for instance, to the *arbitrary power of the crown*, or of *ceding them to France*;—in short, as a power, to which it is impossible to fix any bounds or limitations; a power of *doing with them just what we please*, so that their state is that of *unconditional submission and slavery, of having no law but our will, no right of judging, how far authority in legislation and taxation may extend, but holding all that is valuable at the discretion of another.*\*

This is doubtless a dreadful picture; and though some of the expressions are capable of a favourable meaning, yet taking the whole together, and the sense, which the different parts mutually impart to one another, it must

E 2

be

\* See page 19, 26, 34, 35, 39, 40, 43, 44, 45, 47, 53, 60, 61, 62, 89, 101.

be allowed to be a complete description of the most arbitrary Despotism on the one hand, and of the most abject Slavery on the other. But it is happily a very extravagant misrepresentation of the nature of the case; and the relation between Governors and the governed, in any of the Doctor's free states, might be caricatured just in the same terms.

The power, which is claimed by the Legislature over the Colonies can not, as Dr. PRICE observes, be better stated than in the words of an act of Parliament made on purpose to define it\*. That act declares, "That this kingdom  
 " has power, and of right ought to have power,  
 " to make laws and statutes to bind the Colonies and people of America in all cases whatever." *Dreadful power indeed!* exclaims the Doctor, *I defy any one to express Slavery in stronger language.*—Yes! I think that vile state has been much stronger expressed by himself in the terms just mentioned. *It is the same*, says he, *with declaring*, "that we have a right to do with  
 " them what we please:"—That I deny: it expresses only *civil* power; so that the nature of the subject naturally limits the sense of the general expression, *all cases whatever*; by which  
 nothing

\* See page 34.



nothing more was or could be meant, than that the supreme authority of Parliament over the Colonies is as general, as that of Civil Government, limited by no peculiar or particular exceptions whatever. \*

The truth is, that the claim of Parliament is only to *civil* power: now Civil power, even in the highest and most absolute degree, is a trust, limited in its own nature by the end and purposes of the civil union, which is the security and promotion of the general welfare: beyond these limits Governors have no rights, and the People, strictly speaking, owe no subjection. This power is therefore not arbitrary or tyrannical in itself, nor implies any right of doing with subjects and their properties according to mere pleasure; that would be ascribing to government a right to defeat the very end for which it is established, and to betray the trust  
reposed

\* Mr. Locke declares,—"that the *Legislative* is, in "ALL CASES, whilst the Government subsists, SUPREME." On *Government*, book II. § 150.—These are the terms of the Declaratory Act; and they shew with what truth and propriety Doctor PRICE prides himself on teaching the same doctrine with that excellent writer. This *civil omnipotence* of Government is maintained by all the most esteemed writers on the subject. Nay, the denial of it implies a contradiction.

reposed in it. Men carry rights with them in-  
 to civil society, which no government may in-  
 fringe: "The supreme power," says LOCKE,  
 "in whatever hands it be placed, is not, nor  
 "can possibly be, absolutely *arbitrary* over the  
 "lives and fortunes of the people. For it be-  
 "ing but the joint power of every member of  
 "the society, delegated to that person or assem-  
 "bly, which is legislator; it can be no more than  
 "those persons had in a state of nature, before  
 "they entered into society, and gave up to the  
 "community. For no body can transfer to  
 "another more power, than he has in himself;  
 "and no body has an absolute arbitrary power  
 "over himself, or over any other, to destroy his  
 "own life, or take away the life and proper-  
 "ty of another. ----- The legislative power,  
 "in the utmost bounds of it, is *limited to the*  
 "*public good* of the society. It is a power, that  
 "hath no other end but preservation, and there-  
 "fore can never have right to destroy, enslave,  
 "or designedly to impoverish the subjects. ----  
 "The legislative can not transfer the power of  
 "making laws to any other hands. For it be-  
 "ing but a delegative power from the people,  
 "they, who have it, can not pass it over to  
 "others. Being derived from the people by a  
 "positive voluntary grant and institution, it  
 "can

“ can be no other, than what that positive grant  
 “ conveyed, which being only to make *Laws*,  
 “ and not to make *Legislators*, the Legislative  
 “ can have no power to transfer their authori-  
 “ ty of making laws, and place it in other  
 “ hands.” \*

I therefore conclude, that Doctor PRICE’s  
 state of the question between us and the Colo-  
 nies, *page* 43, to wit,—“ Whether the British  
 “ Parliament has, or has not, of right, a power  
 “ to dispose of their property, and to model,  
 “ as it pleases, their governments,”—is some-  
 what inaccurately and invidiously expressed: it  
 should have been more fairly stated, thus;—  
 Whether the British Parliament has, or has not,  
 the *same* right to tax their property, and to  
 model their governments, as it has in respect  
 of any other part of the community, for the  
 general benefit. But the Doctor objects,—  
 “ that the claiming a *right* to alter the consti-  
 tutions of the Colonies implies a right of sub-  
 jecting them to the arbitrary power of a King,  
 or of the Grand Signior.” † This is asserting,  
 in direct contradiction to LOCKE and reason,  
 that a power delegated to certain persons, to  
 make

\* On *Government*, book II. § 135, 141.

† See *page* 45, 48.

make laws, govern a state, and regulate all subordinate jurisdictions and constitutions, — implies a right to transfer that entrusted power to other hands; an assertion, too favourable to *arbitrary* power to be admitted without substantial proof.

The Doctor however urges,—that if the *declaratory* act of Parliament above-mentioned “ means any thing, it means, that the property, and the legislations of the Colonies, are “ subject to the absolute discretion of Great “ Britain, and ought of right to be so. The “ nature of the thing admits of no limitation. “ The Colonies can never be admitted to be “ judges, how far the authority over them in “ these cases shall extend. This would be to “ destroy it entirely. If *any* part of their property is subject to our discretion, the *whole* “ must be so. If we have a right to interfere “ at all in their internal legislations, we have a “ right to interfere as far as we think proper. “ It is self-evident, that this leaves them no “ thing they can call their own.” \*—How is it possible that Doctor PRICE can reason thus! The most arbitrary despot of Asia could not wish for a logic more favorable to the most abject

\* See page 35.

ject slavery. The following brief observations will sufficiently expose its absurdity, without taking any further notice of the impropriety of substituting *Great Britain* and *us* for the *Parliament*. Government is a general discretionary trust of command over the actions, concerns, property, and strength of those, who belong to the community, for the purposes of the civil union. This the act declares to be vested in the Parliament in regard to the Colonies. They are declared to be subject to its discretionary government, just as we are; just as every civil community is subject to some supreme Legislature. The nature of things admits of and necessarily implies palpable limitations, viz.—the *ends* of the *trust*,—the *laws* of *reason* and *nature*. The Colonies are judges, and so are we and every people on the face of the earth, in all cases, when oppressed by a tyrannical exertion of authority; nor does this destroy or impair at all the authoritative exertions of the supreme Power within the limits of its trust; and beyond those limits it has, properly speaking, no existence. The great masters of the subject of Civil Government, the incomparable LOCKE and HOADLEY, especially the latter, have set this matter in the clearest light, against all the subtleties and sophisms, that the wit of man

could invent ; and have evidently shewn, that a right to tax or to exercise any civil power, which is always a fiduciary trust, implies no such consequences as Doctor PRICE here infers. Indeed he himself, in another place, sufficiently enervates those absurd inferences, by remarking,—

“ that Government is an institution for the benefit of the people governed ; ----- in the very nature of it, a TRUST ; and all its powers a DELEGATION for gaining particular ends. This trust may be misapplied and abused. It may be employed to defeat the very ends, for which it was instituted ; and to subvert the very rights, which it ought to protect. ----- “ Nothing therefore can be more absurd than the doctrine, which some have taught with respect to the omnipotence of Parliaments. They possess no power beyond the limits of the trust, for the execution of which they were formed. If they contradict this trust, they betray their constituents, and dissolve themselves.” \* Thus justly can Doctor PRICE reason on this subject, when it suits his purpose ! † When he sees fit to object to the

supreme

\* See page 12, 15.

† And yet even here, in this passage, his zeal against some people has led him palpably to misunderstand the doctrine

trine

supreme authority of Parliament over the Colonies,—then Government is represented as “ an  
 “ *arbitrary and unlimitable despotism*, to which no  
 “ people can be lawfully subjected:” when the

F 2 uncon-

trine concerning the *omnipotence* of Parliament, and also to fall inadvertently into an absurdity by what he immediately subjoins. By that *omnipotence* the Doctor here means,—a power or right extensive beyond the limits of the trust for which it was delegated:—now in the *first* place, although people may differ, more or less, about the general or constitutional limits of the supreme power of Parliament, yet I presume I may safely defy him to produce an example of any *such* absurd doctrine being taught, as that of the Parliament’s Authority extending beyond the limits of its trust; and *secondly*, Omnipotence, in this assumed sense, can no more be ascribed to legislative authority in the people (which he scruples not to do in the next paragraph) than to the Parliament: for legislative authority in the people has the same general and intrinsic limits, beyond which it can not rightfully act. Indeed when he immediately subjoins: “ theirs is the only *real* omnipotence,”—that is self-evident and admits of no reply; that sort of *physical* omnipotence supercedes effectually all right, government, and authority.

By the *omnipotence* of Parliament, which has been pertinently urged on several occasions, is meant nothing more,—than that it is *absolutely supreme* in command; that there is no *civil* or *legal* power in the state *superior* to it, and that its acts can not be controlled or annulled by any other *authority*. This does not preclude in the least its being limited,

uncontrovertible doctrine of the *civil supremacy* or *omnipotence* of Parliament and of the sovereign authority is in his way,—then Government is represented as “a *trust* and *delegation* for particular

as to the extent of its power, either by laws of Nature, or by rules and principles of the Constitution: it only means, that as the Parliament is the supreme power in the state, there neither is, nor can be, any appeal against its oppressions or transgressions of those limits, but to the *natural* rights of the people to resist oppression, injustice, and unauthorized power. It is the same with every civil Government on the face of the earth: nothing is more evident to those, that have considered the subject, than that there must be in every civil society a supreme commanding authority, vested somewhere, over the *will, persons, concerns, and power* of the whole body, for the purposes of the civil union; and consequently that the supreme Legislative, as such, is absolute, resistible, uncontrollable, and omnipotent, viz. in relation to the community: it is always limited by *natural* law; it may be limited by *constitutional* law;—but it must be, as Mr. LOCKE observes, in all cases, as long as the government subsists, SUPREME over every other person, body, or power in the State: on *Government*, § 150. This is the doctrine of the *civil supremacy* or *omnipotence* of Government taught by that great man, by GROTIUS, PUFFENDORF, HUTCHESON, HOADLEY, &c. Compare Sir EDWARD COKE’s *Institutes* iv. 36, and BLACKSTONE’s *Commentaries*, book I. chap. ii. §. 3. How strangely has this plain evident doctrine been lately misconceived, misrepresented, and abused by an intemperate spirit of party!



“ ticular ends, beyond the limits of which it has  
 “ no power.” In both cases, however, these  
 contradictory representations are equally appo-  
 site,—that is, nothing to the purpose.

§ 9. Whether any persons have argued for  
 the claims of Parliament from the necessary  
*Unity* of the British empire, or from the *Superi-  
 ority* or *Parcency* of this State, in the manner  
 stated by Doctor PRICE \*, I will not stay to ex-  
 amine ; though I can not think that any body  
 has. But certainly there is no force in any of  
 the arguments, which he represents as drawn  
 from those topics ; so that they afford him an  
 easy triumph, and an opportunity of saying se-  
 veral general things little to the purpose. In-  
 deed the Doctor but too often widely misrepres-  
 ents or misconceives the notions and reasonings  
 of those, whom he has chosen to oppose.

That in order to preserve the *Unity* of the  
 British empire, there must be lodged *somewhere*  
 a power of supreme legislation †,—is an incon-  
 testible truth : but where that is lodged, how  
 it is constituted, and in what manner limited,  
 nobody, that knows what he is about, will at-  
 tempt to shew from any general notions of  
 Unity,

\* See page 35—37.

† See page 35.

Unity, but from the history of this people and of the constitution of their Government.

As to arguing from the *Superiority* of the *British State*, as Doctor PRICE terms it \*,—it would be talking nonsense; because the Colonies are a *part* of the *British State*. If, by this latter term, that part called Great Britain be meant; there is no *civil* superiority, that I know of, claimed by this country over the Colonies; and, as to any other, it is out of the question.

The circumstance of our being the *parent State*, no more than that of our having *protected* the Colonies, can have been alledged to shew the *constitutional power* of Parliament;—but may possibly, and not improperly, have been contrasted with the unfriendly and refractory behaviour of those our fellow-subjects on the other side the Atlantic.

§ 10. The argument for the sovereign supremacy of Parliament urged by some, as Doctor PRICE represents it,—“from the land, on which the Colonists settled, being ours,”†—is of more force, when fairly and properly stated, than he apprehends. The case is briefly

\* See page 36.

† See page 39.

ly this. That territory, as far as it has been taken possession of, inhabited, and settled in, by British subjects, under the authority, the sanction, the protection, and the laws of the British state, is become part of the territory of that state;—and, in this sense, if you please, is *our* land, just as we say, that London is *our* capital.—It is thus, that the land of the American Provinces first came, and is now, by long prescription, under the territorial sovereignty of Parliament, in trust for the State;—just as Wales, or any other county in England. This plain and natural state of the case obviates entirely the few captious cavils, with which the Doctor embarrasses the subject. See above, *page 13*.

§ 11. It is a gross misrepresentation of matters, to call the present contest with the Colonies,—“a contest for the *extension of dominion and power over OTHERS, over DIFFERENT societies;—for power only, for its own sake, abstracted from all the advantages connected with it;—for reducing our BRETHREN to servitude:—*to charge it positively, *not* to any injury they have done us, but to a *lust and love of mere power, to pride, blind resentment, love of revenge, a despotic spirit, and such cursed ambition as led a CÆSAR and an ALEXANDER, and many other mad conquerors, to*

*attack*

*attack peaceful communities and to lay waste the earth.*"\* I forbear to point out the contradiction the author falls into in this representation, as well as in the general tenor of his pamphlet, by terming the Colonies, sometimes a *different community* and *people* from ourselves, under a *distinct government of their own*, and then again *our fellow-subjects* and *brethren*, just as best suits his purpose: nor shall I stop at the unwarrantable partiality, unfairness, and absurdity of the above passionate language, which contains nothing but flame without light, and must be generally disapproved. I shall content myself, with opposing to his misrepresentation a just account of the matter; which is this:—The Colonies deny, according to Doctor PRICE himself, "the plenitude of the Parliament's power over them, and insist on being treated as free communities;"† this it is that justly draws

\* See page 51—54, 59, 98, 99, 89.

† See page 56. I have made free, in this passage, to substitute *the Parliament's Power*, instead of the author's phrase, *our power*;—because it is not any power of *this Country* over the Colonies, but that of *Parliament*, that is in contest: *we* are only interested as *fellow-subjects*. The Doctor's phraseology in this respect is exceedingly culpable throughout his whole pamphlet, as it suggests a very false and improper state of the case.

draws down our resentment upon them: the object of the contest is therefore, to maintain, not over *others*, but over our *own people*, our *own fellow-citizens*, the supreme authority of the Legislature; not to reduce our brethren to servitude, but to maintain their joint union with us under the sovereign supremacy of Parliament; and that, not for the sake of *mere power*, *abstracted from all advantages connected with it* (which is a most wild charge), but for the sake of *public interest connected with it and dependent on it* \*.

This is the contest of the *Parliament* and of the *Nation*:—what improper passions or motives may actuate some *individuals*, perhaps Doctor PRICE may know better than we country gentlemen; I am not concerned to investigate, much less to excuse or defend them.

The Doctor would ask nothing but the *gratitude* and the *commerce* of the Colonies:† the latter is a claim not a little arbitrary on a *free* people, and what, upon his own principles, they would refuse, as a demand of *right*, and could not agree to give up for the next generation; hence also Lord SHELBURNE's plan is

G inconsistent

\* See page 53, 51.

† See page 92.

inconsistent with the Doctor's theory. As to *gratitude*, we know very little of its sense or operations among bodies politic.

He asks——“What have they done? Have  
 “they crossed the ocean and invaded us?  
 “Have they attempted to take from us the  
 “fruits of our labor, and to overturn that  
 “form of government, which we hold so sa-  
 “cred? This can not be pretended. On the  
 “contrary. This is what we have done to them.  
 “We have transported ourselves to their peace-  
 “ful retreats, and employed our fleets and  
 “armies, to stop up their ports, to destroy  
 “their commerce, to seize their effects, and to  
 “burn their towns. Would we but let them  
 “alone, and suffer them to enjoy in security  
 “their property and governments, instead of  
 “disturbing us, they would thank and bless  
 “us. And yet it is we, who imagine our-  
 “selves ill used.”\*

This requires no other answer, than to sup-  
 pose for a moment, that the County of Dur-  
 ham denied the plenitude of Parliamentary  
 power over them, and insisted upon being  
 treated as a *free community* (which the Doctor  
 allows

\* See page 55.

allows to be the avowed pretension of the Colonies\*), and that the Parliament endeavoured to reduce them by force to the same subordination as the rest of the state;—would not the talking in such a strain as the above be looked upon as strangely wild and absurd? It is, at the best, a mere begging the question, and *supposing* the Colonies to be distinct communities from us, which have governments of their own, and done us no wrong or injury at all; which things ought to have been *proved*, agreeable to the professed intent of the Pamphlet.

§ 12. In page 41 and 100, there is a very fallacious state of the reasoning made use of by the advocates of Parliamentary supremacy. Doctor PRICE says,—“that we plead the defective state of the representation of this kingdom to prove our right to tax America; arguing, that we submit to a Parliament that does not represent us, therefore they ought; that we want liberty, and therefore they ought.” This he calls a *strange* argument; and so indeed it would be. But what the Doctor alludes to, is not an *argument* to prove the Parliament’s right to tax the Colonies,—but a particular *answer* to an *objection*

G 2

made

\* See page 56.

made by them against that right. The case is this. The leaders of our fellow-subjects in America object,—“that they have no share in making the laws, no voice in Parliament, neither in person, nor by representatives of their own choosing, and are therefore not taxed by themselves as we are:”—We answer; you are in the same predicament, in this respect, as most other individuals and bodies of men in Great Britain are; you have therefore no more right to dispute the authority of Parliament, on the mere pretext of not being there by a personal or delegated presence, than they have. We mean not hereby to justify, much less to *prove*, the legal and constitutional authority of Parliament over the Colonies; that rests on other grounds; nor do we hereby assert, that they are on an equality with us, in regard to checks upon the abuse of that authority; we acknowledge, at least I and many more do, that there is a considerable difference in this respect to their disadvantage; see the preceding 6th §. We only mean to assert from plain fact, and the history of our Constitution, that the legal authority of Parliament over persons and their concerns, for the purposes of Government, depends not on their participating in that authority, either in person, or by representatives of their own choice; and



and that consequently our fellow-subjects in America argue badly, when they object,—“ we are not represented in Parliament by delegates of our own choosing; we share not in the power of taxation or legislation exercised by Parliament; THEREFORE we are not legally and constitutionally subject to Parliamentary taxation and legislation.”

§ 13. Doctor PRICE says he hears it continually urged—“ Are they not our subjects ?” \* —I can not remember it having occurred in my hearing; but it is certainly a false plea; and his reply is a just one, viz. that they are not *our subjects*, but *our fellow-subjects*: and it is precisely from this quality, that we conclude they are jointly subject with us to the one supreme and sovereign legislature of Parliament, unless they can plead any legal exemption by charter, grant, or compact. How amazingly does this contradict his representation of the Colonies, in other places, as *another people* under a *distinct government of their own*!

§ 14. “ The fundamental principle,” says Doctor PRICE, “ of our Government is—the  
“ *right*

\* See page 99.

*“right of a people to give and grant their own money.”\**

I can not find any such principle. The principles of our Constitution, in regard to taxation, are, 1st, That no tax can be laid on British subjects without the consent and authority of Parliament; but that every tax laid on by that authority is legal and valid: 2dly, That the House of Commons has the accustomed right of apportioning and fixing the sums to be levied on the community for the public service, and of thus giving and granting to the Crown the necessary supplies with the joint assent and authority of the other two constituent parts of the Legislature, the King and the House of Lords.—If the House of Commons be considered as the Representative of the people at large, then the Doctor’s principle may be admitted with some little qualification thus; “the right of the people to give and grant their own money, viz. by certain legal and constitutional representatives, eligible according to *custom or statute*.” The people themselves *consent* just as much and as little to those *gifts* and *grants* of money, as they do to the making of laws, or any other operation of Parliament; and therefore

\* See page 49.

fore “the right of the people to *make laws for themselves*” is just as much, in the same sense, and in the same degree, a fundamental principle of our government as “their right to *give and grant their own money*.” The consent of the people has no more constitutional connection with taxation, than with every other governmental power of Parliament: why Doctor PRICE restrains it more peculiarly to that particular branch is best known to himself.—There are doubtless many *fundamental principles* of our government, that most prevalently militate against the principles and arguments of his Pamphlet.

But the Doctor says;—“this right of a people to give and grant their own money, is however the *principle* on which a *free government*, as such, is founded:” \*—this is not true according to his theory; for the *principle* of a *free government*, as such, agreeable to that theory, is “the right of a people to be *governed* in every respect by their own will:” see Sect. 3d of the subsequent *Observations*. Neither was it for any *such self-government* or *self-taxation* that resistance was made to King CHARLES the first †;—it was for levying money *without consent of Parliament*:

\* See page 49.

† Ibid.

*Parlinment.*—"Can we with any decency pretend, that when we give the King *their* money (viz. of the Colonies) we give him *our own*?"\*. Must it be repeated again, that we give not, nor claim a right to give or grant, their money to the Crown? It is the supreme Legislature of the British empire, that claims the right of imposing taxes on them; and when the Commons give the King the money of our fellow-subjects in America, they just *as much* give him *their own*, as when they give him the money of the people of *Yorkshire*: in fact, they give *their own* in neither case, but, as was said before, they apportion the necessary supplies to be raised on the community, or if you please so to express it,—they *give* the money of *the Community*.

I just desire transitorily to remark,—that among the causes of the noble resistance made by the *Dutch* to the *Spanish* monarchy, the Doctor has by mistake mentioned "the levying money without their consent:"† for in the sense here intended, the *Dutch* people did not at that time claim, nor do at present exercise, any such right as Doctor PRICE contends for, of not being taxed but by their own consent, either

\* See page 50.

† See page 90.

either in person, or by representatives of their own choosing. Taxation *without consent* of the *Nobles and States of the Provinces*,—was the grievance here alluded to: for the rest, the cases of the *Dutch* then, and the American Colonies at present, are totally dissimilar.

§ 15. I flatter myself Doctor PRICE will do me the justice to rank me among those *some*, who he doubts not “are influenced by no other  
“ principle, than a regard to what they think  
“ the just authority of Parliament over the Co-  
“ lonies \*, and to the unity and indivisibility of  
“ the British empire. I wish,” says he, “ such  
“ could be engaged to enter thoroughly into  
“ the enquiry, which has been the subject of  
“ the first part of this pamphlet, and to con-  
“ sider, particularly, how different a thing main-  
“ taining the authority of government *within a*  
“ state is from maintaining the authority of one  
“ people over another, already happy in the  
“ enjoyment of a government of their own.” †  
—I have examined thoroughly the first part of  
the Doctor’s pamphlet, witness the *Observations*  
H hereto

\* I have here again substituted the *Parliament* instead of *this country*, for the reason alledged above, page 48, in the *Note*.

† See page 56.

hereto annexed; the result will there be seen: for the rest, what follows is not at all applicable here; for we deem not the Colonies by any means *another people*, under distinct supreme free governments of their own, but a people *within the state*, just as the people of Yorkshire are: but it is one of Doctor PRICE's favorite and capital misrepresentations, to talk of them throughout his whole piece in the former strain, which is nothing but a most exceptionable talking for granted the very thing in dispute;—an easy method indeed, that spares the trouble of arguing! As well might you talk of *Bristol* or *York* being a different people,—and argue that they have governments of their own, which the Parliament ought not to interfere in: they are indeed different as to place or other particular circumstances, but they are the *same people* or *civil community*, and though endowed with distinct subordinate Legislatures for particular purposes, yet are united in the same bonds under one and the same supreme legislative authority. I refer you, for confirmation of this, to the preceding part of this letter. Most of the Doctor's reasonings in favor of the American Colonies, throughout his pamphlet, derive a considerable degree of their plausibility from that assumed hypothesis just now censured,—and also

also from stating the contest to be betwixt *this kingdom* and those *foreign* states, the Colonies, as if *we* here in this island claimed jurisdiction, or desired to extend dominion over *them*: we only claim to be their *fellow-subjects*. See note, § 11. \*

The Doctor wishes us further to consider,—  
 “ that the desire of maintaining authority is  
 “ only warrantable, as far as it is the means  
 “ of promoting some end and doing some  
 “ good;” (this every body is agreed in) “ and  
 “ that, before we resolve to spread famine and  
 “ fire through a country, in order to make it  
 “ acknowledge our authority, we ought to be  
 “ assured, that great advantages will arise not  
 “ only to ourselves, but to the country we wish  
 “ to conquer.” †. Always misrepresentation!  
*We* do not want to make the Colonies acknowledge *our* authority, but that of the *supreme Legislature*, and *our joint civil union* and *submission* under that authority. The great advantages proposed are the continuance and security of those benefits we have already experienced, or may further derive from that mutual union and

H 2 connection.

\* See PRICE's *Observations*, &c. page 19, 20, 27, 28, 32, 35, 36, 51, 53, 56, &c. &c. throughout.

† See page 56, 57.

connection. But the doctrine of *assurance* is as little necessary to action in worldly concerns as in religion: if nations and communities were never to go to war or vindicate their rights, but when *assured* of the great advantages to be derived from so doing,—ambition and injustice would speedily divest them of their most valuable rights and property. But this is too evident to require any further illustration.

Having now, Sir! as I presume, sufficiently explained to you my sentiments on the subject you desired, and also the principles on which they rest, and by which the main force of Doctor PRICE's reasonings may be easily obviated, I therefore make an end of this epistle, with the assurance of my being

*Yours, &c.*

H. GOODRICKE.

YORK,  
May 1, 1776.









